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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 BRADLEY RAY CAIRNES,

8 Plaintiff,

9 v.

10 CITY OF SPOKANE POLICE
11 DEPARTMENT; OCEAN SHORES
12 POLICE DEPARTMENT; PACIFIC
13 POLICE DEPARTMENT; and
FEDERAL BUREAU OF
INVESTIGATION,

Defendants.

NO. 2:19-CV-0104-TOR

ORDER DISMISSING COMPLAINT

14 BEFORE THE COURT is Plaintiff Bradley Ray Cairnes' Complaint (ECF
15 No. 1). Plaintiff is proceeding *pro se* and *in forma pauperis*. The Court has
16 conducted the required screening. For the reasons discussed below, the complaint
17 is dismissed.

18 **STANDARD OF REVIEW**

19 Section 1915(e) "not only permits but requires" the court to *sua sponte*
20 dismiss an *in forma pauperis* complaint that is frivolous or malicious; fails to state

1 a claim on which relief may be granted¹; or seeks monetary relief against a
2 defendant who is immune from such relief. *Lopez v. Smith*, 203 F.3d 1122, 1126–
3 27 (9th Cir. 2000) (en banc). To survive screening, the complaint must contain
4 more than “a formulaic recitation of the elements of a cause of action.” *Bell Atl.*
5 *Corp. v. Twombly*, 550 U.S. 544, 555 (2007). It must plead “enough facts to state a
6 claim to relief that is plausible on its face.” *Id.* at 570. Bare conclusions are
7 insufficient to establish a plausible claim and mere legal conclusions “are not
8 entitled to the assumption of truth.” *Ashcroft v. Iqbal*, 556 U.S. at 678-79.

9 Generally, the facts alleged in a complaint are to be taken as true and must
10 “plausibly give rise to an entitlement to relief.” *Id.* However, as the Supreme
11 Court has found, a district court may dismiss an *in forma pauperis* complaint if the
12 facts alleged are “clearly baseless”; that is, where the allegations are “fanciful”,
13 “fantastic” and “delusional”. *Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992)
14 (quoting *Neitzke v. Williams*, 490 U.S. 319, 325-28 (1989)). “As those words
15 suggest, a finding of factual frivolousness is appropriate when the facts alleged rise
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17 ¹ The standard for reviewing a motion to dismiss pursuant to Rule 12(b)(6) is
18 similarly based on whether the non-moving party has failed to state a claim on
19 which relief can be granted, so Rule 12(b)(6) standards govern a § 1915 review for
20 legal sufficiency. *Knapp v. Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013)

1 to the level of the irrational or the wholly incredible, whether or not there are
2 judicially noticeable facts available to contradict them.” *Id.* at 33.

3 Whether or not a claim is frivolous “is a decision entrusted to the discretion
4 of the court entertaining the *in forma pauperis* petition.” *Id.* Notably, [b]ecause a
5 § 1915(d) dismissal is not a dismissal on the merits, but rather an exercise of the
6 court’s discretion under the *in forma pauperis* statute, the dismissal does not
7 prejudice the filing of a paid complaint making the same allegations. It could,
8 however, have a res judicata effect on frivolousness determinations for future *in*
9 *forma pauperis* petitions.” *Id.* at 34.

10 DISCUSSION

11 According to Plaintiff, Defendants – “with the intent to commit murder” and
12 “disguised as law enforcement” – “stalked Plaintiff in an organized, relentless
13 manner that terrorized him and his daughters, ultimately killing the girls and
14 poisoning Plaintiff with Arsenic[.]” ECF No. 1 at 1. Plaintiff asserts that, “as part
15 of their plan[,] [they] have successfully prevented Plaintiff from receiving proper
16 medical care which will soon result in his death and they have achieved their goals
17 using their positions of authority and public trust as law enforcement and court
18 officials.” ECF No. 1 at 1. According to Plaintiff, “Plaintiff began taking video
19 and photo evidence in 2013” and attached said evidence to the Complaint. ECF
20 No. 1 at 2. However, nothing is attached to the Complaint.

1 Plaintiff asserts that that he “needs immediate medical attention” and
2 “requests that the court order proper medical treatment under its supervision to
3 begin immediately to treat the poisoning these evil people have committed[,]”
4 warning that “[i]f the court does not order this[,] Plaintiff will soon die.” ECF No.
5 1 at 2. Plaintiff also requests the Court “order [D]efendants to cooperate fully and
6 without hesitation to assist Plaintiff in immediately finding his daughters and that
7 they are ordered to obey both state and [f]ederal laws without discretion and before
8 arresting Plaintiff that they must first consult with this court as to its basis.” ECF
9 No. 1 at 2.

10 The Court finds that Plaintiff’s allegations are frivolous as they are wholly
11 incredible. Without identifying any particular actor, Plaintiff alleges a broad
12 conspiracy amongst agents of several agencies to kill him and his family. While he
13 claims his daughters have been killed as part of the conspiracy, he requests
14 assistance in locating his daughters. Further, while he alleges that the actors were
15 *disguised* as law enforcement, he is pursuing a claim against the law enforcement
16 agencies themselves, without any mention of the actual actors. The Complaint
17 must therefore be dismissed. The Court finds amendment would be futile.

18 Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken *in forma*
19 *pauperis* if the trial court certifies in writing that it is not taken in good faith.” The
20 good faith standard is an objective one, and good faith is demonstrated when an

1 individual “seeks appellate review of any issue not frivolous.” *See Coppedge v.*
2 *United States*, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an
3 appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*,
4 490 U.S. 319, 325 (1989).

5 The Court finds that any appeal of this Order would not be taken in good
6 faith and would lack any arguable basis in law or fact. Accordingly, the Court
7 hereby revokes Plaintiff’s *in forma pauperis* status. If Plaintiff seeks to pursue an
8 appeal, he must pay the requisite filing fee.


9 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 10 1. Plaintiff Bradley Ray Cairnes’ Complaint (ECF No. 1) is **DISMISSED**.
11 2. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this
12 Order would not be taken in good faith and would lack any arguable basis in
13 law or fact. Plaintiff’s *in forma pauperis* status is hereby **REVOKED**.

14 The District Court Executive is directed to enter this Order and Judgment
15 accordingly, furnish copies to Plaintiff, and close the file.

16 DATED June 11, 2019.




THOMAS O. RICE
Chief United States District Judge